

AMENDMENT OF SOLICITATION/MODIFICATION OF CONTRACT				1. CONTRACT ID CODE <div style="text-align: center;">J</div>		PAGE OF PAGES <div style="display: flex; justify-content: space-around;"><div>1</div><div>2</div></div>	
2. AMENDMENT/MODIFICATION NO. <div style="text-align: center;">0001</div>		3. EFFECTIVE DATE <div style="text-align: center;">04-Apr-2003</div>		4. REQUISITION/PURCHASE REQ. NO. <div style="text-align: center;">W81G67-3038-5137</div>		5. PROJECT NO.(If applicable)	
6. ISSUED BY <div style="font-size: small;">CONTRACTING DIVISION USAGE - ST PAUL 190 5TH STREET E ST PAUL MN 55101-1638</div>		CODE <div style="text-align: center;">DACW37</div>		7. ADMINISTERED BY (If other than item 6) <div style="text-align: center; font-weight: bold;">See Item 6</div>			
8. NAME AND ADDRESS OF CONTRACTOR (No., Street, County, State and Zip Code)				X		9A. AMENDMENT OF SOLICITATION NO. <div style="text-align: center;">DACW37-03-B-0008</div>	
				X		9B. DATED (SEE ITEM 11) <div style="text-align: center;">25-Mar-2003</div>	
						10A. MOD. OF CONTRACT/ORDER NO.	
						10B. DATED (SEE ITEM 13)	
CODE		FACILITY CODE					
11. THIS ITEM ONLY APPLIES TO AMENDMENTS OF SOLICITATIONS							
<input checked="" type="checkbox"/> The above numbered solicitation is amended as set forth in Item 14. The hour and date specified for receipt of Offer <input type="checkbox"/> is extended, <input checked="" type="checkbox"/> is not extended. Offer must acknowledge receipt of this amendment prior to the hour and date specified in the solicitation or as amended by one of the following methods: (a) By completing Items 8 and 15, and returning _____ copies of the amendment; (b) By acknowledging receipt of this amendment on each copy of the offer submitted; or (c) By separate letter or telegram which includes a reference to the solicitation and amendment numbers. FAILURE OF YOUR ACKNOWLEDGMENT TO BE RECEIVED AT THE PLACE DESIGNATED FOR THE RECEIPT OF OFFERS PRIOR TO THE HOUR AND DATE SPECIFIED MAY RESULT IN REJECTION OF YOUR OFFER. If by virtue of this amendment you desire to change an offer already submitted, such change may be made by telegram or letter, provided each telegram or letter makes reference to the solicitation and this amendment, and is received prior to the opening hour and date specified.							
12. ACCOUNTING AND APPROPRIATION DATA (If required)							
13. THIS ITEM APPLIES ONLY TO MODIFICATIONS OF CONTRACTS/ORDERS. IT MODIFIES THE CONTRACT/ORDER NO. AS DESCRIBED IN ITEM 14.							
A. THIS CHANGE ORDER IS ISSUED PURSUANT TO: (Specify authority) THE CHANGES SET FORTH IN ITEM 14 ARE MADE IN THE CONTRACT ORDER NO. IN ITEM 10A.							
B. THE ABOVE NUMBERED CONTRACT/ORDER IS MODIFIED TO REFLECT THE ADMINISTRATIVE CHANGES (such as changes in paying office, appropriation date, etc.) SET FORTH IN ITEM 14, PURSUANT TO THE AUTHORITY OF FAR 43.103(B).							
C. THIS SUPPLEMENTAL AGREEMENT IS ENTERED INTO PURSUANT TO AUTHORITY OF:							
D. OTHER (Specify type of modification and authority)							
E. IMPORTANT: Contractor <input type="checkbox"/> is not, <input type="checkbox"/> is required to sign this document and return _____ copies to the issuing office.							
14. DESCRIPTION OF AMENDMENT/MODIFICATION (Organized by UCF section headings, including solicitation/contract subject matter where feasible.) This amendment is to make changes to the specifications. The bid opening date remains unchanged.							
Except as provided herein, all terms and conditions of the document referenced in Item 9A or 10A, as heretofore changed, remains unchanged and in full force and effect.							
15A. NAME AND TITLE OF SIGNER (Type or print)				16A. NAME AND TITLE OF CONTRACTING OFFICER (Type or print)			
				TEL: _____ EMAIL: _____			
15B. CONTRACTOR/OFFEROR _____ <div style="font-size: x-small;">(Signature of person authorized to sign)</div>		15C. DATE SIGNED		16B. UNITED STATES OF AMERICA BY _____ <div style="font-size: x-small;">(Signature of Contracting Officer)</div>		16C. DATE SIGNED <div style="text-align: center;">04-Apr-2003</div>	

SECTION SF 30 BLOCK 14 CONTINUATION PAGE

SUMMARY OF CHANGES

1. CHANGE TO SECTION 01330 – SUBMITTAL PROCEDURES

Insert the attached submittal register, “REGISTER.pdf,” at the end of the section.

2. CHANGE TO SECTION 01565 – NORTH DAKOTA POLLUTANT ELIMINATION SYSTEM

Insert the attached “NDPDES Permit Application” at the end of the section.

3. CHANGES TO DRAWING R23-L-BH 64/032

a.) Delete the “MASTER PLANT LIST” and replace it with the following:

MASTER PLANT LIST

QTY	SIZE/ROOT		COMMON NAME	BOTANICAL NAME
24	2”	B&B	BUR OAK	QUERCUS MACROCARPA
17	1 ½ “	B&B	CANADA RED CHERRY	PRUNUS VIRGINIANA “SHURBERT”
11	2”	B&B	MARSHALL’S SEEDLESS ASH	FRAXINUS PENNSYLANICA LANCEOLATA “MARSHALL’S SEEDLESS”
9	5’	B&B	AUSTRIAN PINE	PINUS NIGRA
9	4’	B&B	BLACK HILLS SPRUCE	PICEA GLAUCA DENSATA
2	5’	B&B	BLACK HILLS SPRUCE	PICEA GLAUCA DENSATA
5	6’	B&B	BLACK HILLS SPRUCE	PICEA GLAUCA DENSATA

b.) Delete the “PLANTING HOLE DIMENSIONS” and replace it with the following:

PLANTING HOLE DIMENSIONS

PLANT TYPE	PLANT SIZE	MINIMUM HOLE WIDTH	APPROX. HOLE DEPTH
TREES	4’ B&B	51 inches	13 inches
	5’ B&B	60 inches	13 inches
	6’ B&B	66 inches	15 inches
	1 ½” B&B	72 inches	16 inches
	1” B&B	72 inches	16 inches

(End of Summary of Changes)

SUBMITTAL REGISTER

CONTRACT NO.

TITLE AND LOCATION Wesley Acres Church Camp						CONTRACTOR											
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		01330	SD-01 Preconstruction Submittals														
			Submittal register	1.5.1	G												
		01355	SD-01 Preconstruction Submittals														
			Environmental Protection Plan	1.7	G ENV												
		01500	SD-04 Samples														
			Site Plan														
		01565	SD-01 Preconstruction Submittals														
			Notice of Intent (NOI)														
			Public Notification														
			SD-02 Shop Drawings														
			Temporary Erosion And Sediment Control Plan														
			SD-11 Closeout Submittals														
			Notice of Termination (NOT)														
		02220	SD-03 Product Data														
			Work Plan		G												
		02300	SD-02 Shop Drawings														
			Drainage Swale Shaping		G												
			SD-06 Test Reports														
			Testing														
			Daily Report Forms														
		02315	SD-06 Test Reports														
			Testing	3.13													
		02510	SD-03 Product Data														
			Installation														
			Satisfactory Installation														

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		02510	SD-06 Test Reports															
			Bacteriological Disinfection															
		02532	SD-06 Test Reports															
			Hydrostatic Tests															
		02731	SD-07 Certificates															
			Statement															
		02915	SD-03 Product Data															
			Transplanting Plan	1.3														
			Maintenance Record															
		02921	SD-03 Product Data															
			Seed Establishment Period															
			Maintenance Record	3.8.2.3														
			SD-07 Certificates															
			Seed															
			Fertilizer															
			Mulch															
		03307	SD-03 Product Data															
			Air-Entraining Admixture	2.1.3.1														
			Accelerating Admixture															
			Water-Reducing or Retarding Admixture															
			Curing Materials		G E D													
			Reinforcing Steel		G E D													
			Batching and Mixing Equipment	3.1.4.3														
			Conveying and Placing Concrete															
			Formwork	2.1.6														

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		03307	SD-06 Test Reports														
			Aggregates	2.1.2													
			Concrete Mixture Proportions														
			SD-07 Certificates														
			Cementitious Materials	2.1.1													
			Aggregates	2.1.2													
		04200	SD-02 Shop Drawings														
			Masonry Work		G ED												
			SD-03 Product Data														
			Cold Weather Installation	3.1.2	G ED												
			SD-04 Samples														
			Concrete Masonry Units (CMU)		G ED												
			Anchors, Ties, and Bar		G ED												
			Positioners														
			SD-06 Test Reports														
			Field Testing of Mortar		G ED												
			Field Testing of Grout		G ED												
			Prism tests		G ED												
			Masonry Cement		G ED												
			Special Inspection		G ED												
			SD-07 Certificates														
			Concrete Masonry Units (CMU)		G ED												
			Anchors, Ties, and Bar		G ED												
			Positioners														
			Reinforcing Steel Bars and Rods		G ED												
			Masonry Cement		G ED												

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		04200	Mortar Admixtures		G ED												
			Grout Admixtures														
		04220	SD-02 Shop Drawings														
			Detail Drawings		G												
			SD-04 Samples														
			Cultured Stone Unit		G												
		05055	SD-02 Shop Drawings														
			Detail Drawings		G ED												
			SD-07 Certificates														
			Qualification of Welders and Welding Operators		G ED												
		06200	SD-02 Shop Drawings														
			Finish Carpentry														
			SD-03 Product Data														
			Wood Items, Trim	2.1													
			SD-04 Samples														
			Moldings	2.1.6													
			Fascias and Trim	2.1.5													
		06410	SD-02 Shop Drawings														
			Shop Drawings	1.7													
			Installation	3.1													
			SD-03 Product Data														
			Wood Materials	2.1													
			Finish Schedule														
			SD-04 Samples														
			Plastic Laminates	2.2													

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		06410	Cabinet Hardware	2.3													
			SD-07 Certificates														
			Quality Assurance	1.4													
			Laminate Clad Casework	3.1													
		07311	SD-03 Product Data														
			Application of Roofing Materials	3.2													
			SD-04 Samples														
			Shingles	2.1.4													
		07600	SD-02 Shop Drawings														
			Materials	2.1													
		07900	SD-03 Product Data														
			Backing	2.1													
			Bond-Breaker	2.2													
			Sealant	2.4													
			SD-07 Certificates														
			Sealant	2.4													
		08210	SD-02 Shop Drawings														
			Doors	2.1													
			SD-03 Product Data														
			Doors	2.1													
			Accessories	2.2													
			Water-resistant sealer	2.3.7													
			warranty	1.4													
			SD-04 Samples														
			Doors	2.1													
			SD-06 Test Reports														

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		08210	Split resistance	2.4													
			Cycle-slam	2.4													
			Hinge loading resistance	2.4													
		08550	SD-02 Shop Drawings														
			Wood windows	2.1													
			SD-03 Product Data														
			Wood windows	2.1													
			SD-08 Manufacturer's Instructions														
			Wood windows	2.1													
			SD-10 Operation and Maintenance Data														
			Wood windows	2.1													
		08710	SD-02 Shop Drawings														
			Hardware schedule	1.3													
			Keying system	2.3.4													
			SD-03 Product Data														
			Hardware items	2.3													
			SD-08 Manufacturer's Instructions														
			Installation	3.1													
			SD-10 Operation and Maintenance Data														
			Hardware Schedule	1.3													
			SD-11 Closeout Submittals														
			Key biting	1.4													
		09250	SD-03 Product Data														
			Accessories	2.1.5													

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		09250	SD-07 Certificates														
			Asbestos Free Materials	2.1													
		09510	SD-02 Shop Drawings														
			Approved Detail Drawings	1.3													
			SD-03 Product Data														
			Acoustical Ceiling Systems														
			SD-04 Samples														
			Acoustical Units	2.1													
		09650	SD-03 Product Data														
			Resilient Flooring and Accessories														
			SD-04 Samples														
			Flooring	3.2													
			SD-06 Test Reports														
			Moisture Test	3.3													
		09670	SD-02 Shop Drawings														
			Industrial Resin-Based Flooring	2.1													
			SD-03 Product Data														
			Resin Manufacturer's Instructions	3.1													
			Installation	3.1													
			SD-04 Samples														
			Industrial Resin-Based Flooring	2.1													
			SD-07 Certificates														
			Industrial Resin-Based Flooring	2.1													
			Qualification of Applicator	1.3													
		09900	SD-02 Shop Drawings														

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		09900	Piping identification	3.8													
			stencil	3.8													
			SD-03 Product Data														
			Coating	2.1													
			Manufacturer's Technical Data	2.1													
			Sheets														
			SD-04 Samples														
			Color	1.8													
			Textured Wall Coating System														
			SD-07 Certificates														
			Applicator's qualifications	1.3													
			Qualification Testing Laboratory for Coatings														
			SD-08 Manufacturer's Instructions														
			Application instructions														
			Mixing	3.5.2													
			Manufacturer's Material Safety	1.6.2													
			Data Sheets														
			SD-10 Operation and Maintenance														
			Data														
			Coatings:	2.1													
		09915	SD-04 Samples														
			Color Schedule	2.2	G												
		10160	SD-02 Shop Drawings														
			Approved Detail Drawings	1.3													
			SD-03 Product Data														

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		10160	Toilet Partition System														
			SD-04 Samples														
			Toilet Partition System														
		10201	SD-02 Shop Drawings														
			Wall louvers		G												
		10265	SD-02 Shop Drawings														
			Wall Covering FRP Liner Panels	2.2													
			SD-03 Product Data														
			Wall Covering FRP Liner Panels	2.2													
			SD-04 Samples														
			Finish														
			SD-07 Certificates														
			Wall Covering FRP Liner Panels	2.2													
		10440	SD-02 Shop Drawings														
			Detail Drawings	3.1													
			SD-03 Product Data														
			Installation	3.1													
			SD-04 Samples														
			Interior Signage	1.3													
			SD-10 Operation and Maintenance														
			Data														
			Approved Manufacturer's	3.1													
			Instructions														
			Protection and Cleaning	3.1.2													
		10800	SD-03 Product Data														
			Finishes	2.1.2													

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		10800	Accessory Items	2.2													
			SD-04 Samples														
			Finishes	2.1.2													
			SD-10 Operation and Maintenance Data														
			Electric Hand Dryer	2.2.9													
		13125	SD-02 Shop Drawings														
			Structural Wood Members	2.2.5	G												
			Installation of Framing Foundation	3.1	G												
			Nailers and Nailing Strips	3.4.4													
			SD-03 Product Data														
			Structural Wood Members	2.2.5	G												
			Foundation		G												
			Product Installations														
			SD-07 Certificates														
			Wood Building Systems														
			Grading and Marking	2.2.1													
			Insulation	2.5													
		15400	SD-02 Shop Drawings														
			Plumbing System		G PM												
			Electrical Schematics														
			SD-03 Product Data														
			Plumbing Fixture Schedule														
			Plumbing System														
			SD-06 Test Reports														

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		15400	Tests, Flushing and Disinfection														
			SD-10 Operation and Maintenance														
			Data														
			Plumbing System														
		15565	SD-02 Shop Drawings														
			Heating System		G PM												
			Installation	3.1													
			SD-03 Product Data														
			Heating System														
			SD-06 Test Reports														
			Testing, Adjusting, and Balancing	3.2													
			SD-10 Operation and Maintenance														
			Data														
			Instructions	3.3													
		15895	SD-02 Shop Drawings														
			Drawings		G PM												
			Installation														
			SD-03 Product Data														
			Components and Equipment	2.1	G PM												
			Test Procedures														
			System Diagrams														
			Similar Services														
			Testing, Adjusting and Balancing														
			Field Training		G PM												
			SD-06 Test Reports														
			Performance Tests														

SUBMITTAL REGISTER

CONTRACT NO.

TITLE AND LOCATION Wesley Acres Church Camp						CONTRACTOR											
ACTIVITY NO	TRANSMITTAL NO	SPEC SECT	DESCRIPTION ITEM SUBMITTED	PARAGRAPH	GOVT CLASS SPEC ATTOR	CONTRACTOR: SCHEDULE DATES			CONTRACTOR ACTION		DATE FWD TO APPR AUTH/ DATE RCD FROM CONTR	APPROVING AUTHORITY				MAILED TO CONTR/ DATE RCD FRM APPR AUTH	REMARKS
						SUBMIT	APPROVAL NEEDED BY	MATERIAL NEEDED BY	ACTION CODE	DATE OF ACTION		DATE FWD TO OTHER REVIEWER	DATE RCD FROM OTH REVIEWER	ACTION CODE	DATE OF ACTION		
(a)	(b)	(c)	(d)	(e)	(f)	(g)	(h)	(i)	(j)	(k)	(l)	(m)	(n)	(o)	(p)	(q)	(r)
		15895	SD-10 Operation and Maintenance Data														
			Operating and Maintenance Instructions	3.6													
		15990	SD-02 Shop Drawings														
			TAB Schematic Drawings and Report Forms	3.3													
			SD-03 Product Data														
			TAB Related HVAC Submittals	3.2													
			TAB Procedures														
			Calibration	1.4													
			Systems Readiness Check	3.4.2													
			TAB Execution	3.4.1													
			SD-06 Test Reports														
			Design Review Report	3.1													
			Systems Readiness Check	3.4.2													
			TAB Report	3.4.3													
		15995	SD-03 Product Data														
			Commissioning Team	3.1													
			Test Procedures														
			Test Schedule														
			SD-06 Test Reports														
			Test Reports														
		16302	SD-02 Shop Drawings														
			precast sectional underground duct bank		G												

<p align="center">SUBMITTAL REGISTER</p>	<p>CONTRACT NO.</p>
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CONTRACT NO.

Wesley Acres Church Camp

[illegible]



**NOTICE OF INTENT TO OBTAIN COVERAGE UNDER NDPDES
GENERAL PERMIT FOR STORMWATER DISCHARGES
ASSOCIATED WITH CONSTRUCTION ACTIVITY**
NORTH DAKOTA DEPARTMENT OF HEALTH
DIVISION OF WATER QUALITY

SFN 19145 (09/99)

FOR DEPT. USE ONLY

Application No.

Date Received

GENERAL INFORMATION

Name of Construction Project			
Name of Company, Individual, or Organization Seeking Authorization to Discharge			Telephone No. { }
Mailing Address	City	State	Zip Code
Status of the Construction Site	<input type="checkbox"/> Private <input type="checkbox"/> State	<input type="checkbox"/> Federal <input type="checkbox"/> Other (Specify):	

NATURE OF DISCHARGE

Brief Description of Nature of Construction Project:							
Project Start Date				Estimated Area of Total Disturbance in Acres			
Estimated Completion Date							
Facility Location	Street			City			
	OR	1/4	1/4	Section	Township	Range	County
	OR	Latitude o I II		Longitude o I II		County	
Receiving Waters	<input type="checkbox"/> Natural Surface Drainage		Name or Description of Receiving Waters				
	OR	<input type="checkbox"/> Municipal Storm Sewer	Name of City				
			Ultimate Receiving Waters				

RETURN COMPLETED APPLICATION TO: North Dakota Department of Health Division of Water Quality 1200 Missouri Ave., Rm. 203 PO Box 5520 Bismarck, ND 58506-5520 Telephone: 701-328-5210	I certify I am familiar with NDCC 61-28-08, and with the information contained in this application. To the best of my knowledge and belief, the information in this application is true, complete, and accurate.	
	Printed Name of Applicant(s)	Title
	Signature of Applicant(s)	Application Date

(Attach additional pages if needed)

Permit No.: NDR03-0000

Effective Date: October 1, 1999

Expiration Date: September 30, 2004

AUTHORIZATION TO DISCHARGE UNDER THE
NORTH DAKOTA POLLUTANT DISCHARGE ELIMINATION SYSTEM

In compliance with Chapter 33-16-01 of the North Dakota Department of Health rules as promulgated under Chapter 61-28 (North Dakota Water Pollution Control Act) of the North Dakota Century Code,

facilities both qualifying for and satisfying the requirements identified in Part I of this permit

are authorized to discharge stormwater associated with **CONSTRUCTION ACTIVITY**

to waters of the state

in accordance with effluent limitations, monitoring requirements, and other conditions set forth in Parts I-VI, hereof.

This permit and the authorization to discharge shall expire at midnight,

September 30, 2004.

Dennis R. Fewless, Director
Division of Water Quality

Date

PART I - PERMIT COVERAGE

A. Permit Area

This permit applies to all areas within the jurisdiction of the state of North Dakota.

B. Eligibility and Limitations

1. Stormwater Discharges Covered by this Permit

This permit applies to all new and existing discharges of stormwater associated with construction activity from any of the following:

- a. Construction activity including: clearing, grading, and excavation activities.
- b. Examples of eligible construction projects include but are not limited to: road building/rebuilding, site development, housing subdivision development, utility trenching, ect.
- c. Areas that are dedicated to producing earthen materials (such as soils, sand and gravel) for use at a construction site(s) as approved by the Department.

2. Stormwater Discharges *Not* Covered by this Permit

The following are not provided coverage under this permit:

- a. Stormwater discharges associated with industrial activity from any source other than construction activities of those approved operations as in Part I.B.1.b..
- b. Stormwater discharges associated with mining activities.
- c. Stormwater discharges associated with industrial activity form discharge points subject to existing effluent limitations guidelines.
- d. Stormwater discharges that the Department has shown to be contributing to a violation of a water quality standard.

C. Notice of Intent to Obtain Coverage

1. Deadlines

The operator of the construction activity shall submit a Notice of Intent (NOI) (form attached as Appendix A) to obtain coverage for stormwater discharges and a SWPP plan (see Part II.C.3) for the construction project, 30 days prior to the start of construction. An operator is the company, individual, or organization who has day to day supervision and control of activities occurring at the construction site. This can be the owner, developer, the general contractor or, in some circumstances, the agent of one of these parties.

2. Contents of the NOI

The Notice of Intent (NOI) shall contain, at a minimum, the following information:

- a. Name of the construction site.
- b. The status of the construction site (federal, state, private, or other entity).
- c. Name of the company, individual, or organization seeking authorization.
- d. County and location of the construction site, including latitude and longitude or Township, Range, section, and 1/4 section.
- e. A brief description of the construction activity.
- f. The anticipated starting date and the anticipated date of completion for the project.
- g. The estimated area of total disturbance in acres.
- h. Name of receiving water(s) or the name of the receiving municipal storm sewer system and receiving water(s).
- i. The signature of the applicant(s), signed in accordance with Part IV.E of this permit.

3. Submission

Completed NOIs and SWPP plans shall be submitted, by mail or hand delivery, to:

North Dakota Department of Health
Division of Water Quality
1200 Missouri Avenue
PO Box 5520
Bismarck, ND 58506-5520

D. Permit Certification

1. Automatic Coverage

If the applicant does not receive a request for additional information or a notification of denial from the Department within 10 days of receipt of the application by the Department, authorization to discharge in accordance with the conditions of this permit shall be deemed granted.

2. Request for Additional Information

The Department shall have the right to request additional data and/or deny the authorization for any particular discharge.

3. Individual or Alternative General Permits

- a. The Department may, at any time and by written notification only, require any person authorized by this permit to apply for and obtain either an individual NDPDES permit or to seek coverage under an alternative NDPDES general permit.
- b. Any person covered by this general permit may request to be excluded from such coverage by either applying for an individual NDPDES permit or filing a Notice of Intent to be covered under an alternative NDPDES general permit.

- c. When an individual NDPDES permit is issued to a person otherwise subject to this permit or the person is approved for coverage under an alternative NDPDES general permit, the applicability of this permit to the individual permittee is automatically terminated upon the effective date of the individual permit or the date of approval for coverage under the alternative general permit.
- d. When an individual NDPDES permit is denied to a person otherwise subject to this permit, or the person is denied for coverage under an alternative NDPDES general permit, the applicability of this permit remains in effect, unless otherwise specified by the Department.

4. Local Authority

This permit does not preempt or supersede the authority of local agencies to prohibit, restrict, or control discharges of stormwater to storm sewer systems or other water courses within their jurisdiction.

E. Continuation of Coverage

Facilities covered under this permit can continue coverage under the renewed permit, provided a satisfactory request is made. Any request to retain coverage under a renewal of this permit shall be made in writing to the Department at least 15 days prior to the expiration date of this permit. If requested by the Department, a new NOI shall be submitted.

F. Transfer of Ownership or Control

- 1. Coverage under this permit may be transferred to a new permittee if the existing and new permittee notifies the Department, in writing, at least 48 hours before the transfer of ownership or control; and the notice includes a written agreement between the existing and new permittee containing a specific date of transfer of permit responsibility, coverage and liability between them. If requested by the Department, a NOT shall be submitted by the existing permittee and a NOI submitted by the new permittee.
- 2. The new owner or operator must comply with all regulations in this permit and with all provisions of the existing SWPP plan until such time as the existing SWPP plan is amended or replaced by a new SWPP plan. If the personnel responsible for implementing the SWPP plan change, these changes must be amended to the SWPP plan within 30 days of transfer of ownership or control.

G. Notice of Termination

1. Final Stabilization

When a site has been finally stabilized, a Notice of Termination (see Appendix B) shall be submitted to the Department. Final stabilization is reached when all construction activities that are authorized by this permit have been completed, and uniform vegetative cover has been established with a density of at least 70 percent of pre-disturbance levels, or equivalent permanent, physical erosion reduction methods have been employed.

2. Content of NOT

The Notice of Termination (NOT) shall contain, at a minimum, the following information:

- a. Permit number.
- b. Name of construction site.
- c. Operator's name, mailing address and phone number.
- d. County and location of the construction site, including latitude and longitude or Township, Range, section, and 1/4 section.
- e. Certification that the site has been finally stabilized.
- f. Signature of the applicant(s), signed in accordance with Part IV.E of this permit.

PART II - SPECIAL CONDITIONS

A. Prohibition of Non-stormwater Discharges

All discharges covered by this permit shall be composed entirely of stormwater. The discharge of materials other than stormwater must be identified as a potential source of pollution in the SWPP plan (Part II.C.3). Unless otherwise determined by the Department, discharges other than stormwater must be in compliance with an appropriate NDPDES permit issued for the discharge.

B. Releases in Excess of Reportable Quantities

This permit does not relieve the permittee of the reporting requirements of 40 CFR 110, 40 CFR 117, and 40 CFR 302. Any release of a hazardous substance, including a release in a stormwater discharge, must be reported to the agencies identified in Part IV.F. The discharge of hazardous substances in stormwater discharges shall be minimized in accordance with the applicable SWPP plan for the facility. Should a reportable quantity release occur, the SWPP plan shall be revised to prevent the recurrence of such a release.

C. Stormwater Pollution Prevention Plans

1. All facilities covered by this permit shall prepare and implement a Stormwater Pollution Prevention (SWPP) plan that is subject to Department approval. Guidance forms for preparing a SWPP plan are located in Appendix C. The main objective of the plan shall be to identify potential sources of pollution which may reasonably be expected to affect the quality of stormwater discharges associated with construction activity; and to describe Best Management Practices (BMPs) which will be used to reduce the pollutants in the stormwater discharges associated with construction activity. The implementation of these objectives will be used to meet the terms and conditions of this permit.

2. Plan Preparation and Implementation Deadlines

- a. The SWPP plan shall be submitted with the NOI, 30 days prior to the start of construction. Implementation of the plan shall be at the start of construction. The SWPP plan may be submitted and/or implemented at later dates only upon written request by the permittee showing just cause and subsequent written approval by the Department.

- b. SWPP plans approved and implemented under the previous version of this permit shall remain in effect under this permit. Operations covered under an existing SWPP plan shall amend the SWPP plan as described in Part II.C.2.d of this permit.
- c. If the permittee must also operate under an approved state or local sediment and erosion control plan, or any other stormwater management plan, it will be the permittee's responsibility to ensure that the SWPP plan for this permit complies with all other required plans. A SWPP plan is not a substitute for a stormwater management plan developed under other regulatory programs. It is acceptable for the plan to reflect the stormwater management measures developed under other regulatory programs and to incorporate the applicable portions of such programs by reference.
- d. The permittee shall amend the SWPP plan whenever there is a change in design, construction, operation, or maintenance, which has a significant effect on the potential for the discharge of pollutants to the water of the state, or if the SWPP plan proves to be ineffective in achieving the general objectives of controlling pollutants in stormwater discharges associated with construction activity.

3. SWPP Plan Contents

Key elements for SWPP plans shall include, at a minimum, the following information:

a. *Site Description*

A site description shall contain, at a minimum, the following information:

- i) A description of the nature of the construction activity.
- ii) The proposed timetable for major activities.
- iii) Estimates of the total area of the site, and the area of the site that is expected to undergo clearing, excavation, or grading.
- iv) A description of the fill material to be used, the existing soils at the site, and the erodibility of such soils.
- v) The name of any receiving water(s) and the size, type and location of any outfall or; for discharges to a municipal separate storm sewer, the name of the municipal owner of the system, the location of the storm sewer discharge, and the name of the ultimate receiving waters.

b. *Site Map*

A site map that indicates, at a minimum, the following information:

- i) Construction site boundaries and area of soil disturbance.
- ii) The location of springs, streams, wetlands, and other surface waters.
- iii) The location of areas used for storage of building materials, soils, or wastes.
- iv) The locations of proposed and existing stormwater controls.
- v) Stormwater runoff drainage patterns.
- vi) Township, range, section or lines of latitude and longitude.

c. *Significant Material Inventory*

The location and description of any potential pollution sources, such as vehicle fueling, fertilizers, or chemicals, etc. Generally, significant materials are raw materials, finished products, and byproducts. The term also includes materials necessary for an operation which have the potential to be released with stormwater. The description should identify methods of storage, disposal, and outdoor processing involving significant materials.

d. *Best Management Practices (BMPs)*

The plan shall clearly describe the relationship between the phases of construction and the implementation and maintenance of BMPs. The description of BMPs shall include the following components:

i) Erosion and Sediment Controls

a) Nonstructural

A description of nonstructural practices designed to preserve existing vegetation where practicable and re-vegetate open areas as soon as practicable after construction activity ceases. In developing vegetative practices, the permittee shall consider: temporary and permanent seeding, mulching, sod stabilization, filter strips, grassed waterways, erosion blankets, geotextiles, preservation of mature vegetation and tree or shrub planting.

b) Structural

A description of structural practices which indicates how, to the degree practicable, the permittee will divert flows from exposed soil, store flows, or otherwise limit runoff from exposed areas of the site. In developing structural practices, the permittee shall consider the relevance of: straw bale dikes, silt fences, earth dikes, drainage swales, check dams, subsurface drains, pipe slope drains, rock outlet protection, drain inlet and outlet protection, temporary drain diversion, sediment traps, temporary sediment basins, infiltration trenches or basins, and retaining walls.

ii) Other Controls

a) A description of methods to reduce the tracking of sediment onto public or private roads.

b) If applicable, a description of methods for handling and disposing of contaminated soils.

c) A description of methods for recovering sediments.

d) A description of spill prevention and response procedures for areas where potential spills can occur.

e. *Post-construction Controls*

A description of the post-construction control measures to be implemented until final stabilization is achieved.

f. *Inspection and Maintenance*

A description of procedures which will be used to inspect and maintain, in good and effective operating condition, the stormwater controls identified in the SWPP plan. Site inspections must be in accordance with Part III of this permit.

g. *Signature*

All SWPP plans must be signed in accordance with Part IV-E of this permit.

D. Additional Terms and Conditions

Stormwater discharges from construction sites shall not cause pollution, contamination, or degradation to waters of the state.

1. Visible or measurable erosion which leaves the construction site is prohibited. Visible or measurable erosion is defined as:
 - a. Deposits of mud, dirt, sediment, or similar material exceeding one-half cubic foot in volume in any area of 100 square feet or less on public or private streets, adjacent property, or into the storm and surface water either by deliberate actions or as a result of erosion; or
 - b. Evidence of concentrated flows of water over bare soils, turbid or sediment-laden flows, or evidence of on-site erosion on bare soil slopes, where runoff of water is not filtered or captured on the site using the techniques in the approved SWPP plan; or
 - c. Earth slides, mud flows, earth sloughing, or other earth movement which leaves the property.
2. If any measurable quantity of sediment leaves the site because of structural failure or lack of design capacity of the BMPs, the sediment shall be placed back on the site or properly disposed of, as soon as is prudent. Under no conditions shall the sediment be washed into the storm sewers or drainage ways.
3. Concrete wash water shall not be discharged to waters of the state or to storm sewer systems.
4. Bulk storage structures for petroleum products and other chemicals shall have adequate protection so as to contain all spills and prevent any spilled materials from entering waters of the state.

5. No chemicals are to be added to the discharge unless permission for the use of a specific chemical is granted by the Department. In granting the use of such chemicals, special conditions and monitoring may need to be addressed through an individual NDPDES permit or an alternative NDPDES general permit.
6. All stormwater discharges must comply with the requirements, policies, or guidelines, of municipalities and other local agencies. Any discharges of stormwater to storm drainage systems or other water courses under their jurisdiction, including applicable requirements in municipal stormwater management programs developed to comply with NDPDES permits, must comply with their local requirements.

PART III - EFFLUENT LIMITATIONS, MONITORING, AND RECORDING REQUIREMENTS

A. Effluent Limitations

The quality of stormwater discharges associated with construction activity shall reflect the best which is attainable through the proper implementation of all items in the SWPP plan for the construction site.

B. Monitoring requirements

The permittee shall inspect the construction site to ensure that the stormwater controls identified in the SWPP plan are effective and properly maintained. The construction site perimeter, disturbed areas, and areas used for material storage shall be inspected for evidence of, or the potential for, erosion, sediment accumulation, sediment material residue and spills. The following guidelines shall be used for monitoring the effectiveness of the SWPP plan:

1. Site inspections shall be performed by or under the direction of the permittee at least once every 7 calendar days and within 24 hours after any storm event of greater than 0.50 inches of rain per 24-hour period. The permittee shall have the option of maintaining a rain gauge at their site or utilizing the nearest National Weather Service precipitation gauge station. Any gauge station used shall be located within 10 miles of the stormwater discharge.
2. During storm events or periods of snow melt, when runoff occurs daily, all SWPP plan controls shall be inspected by or under the supervision of the permittee daily.
3. Stormwater runoff discharges shall be visibly monitored at the above frequency to evaluate the effectiveness of the SWPP plan controls. If any measurable quantities of sediment are leaving the property, corrective action shall be taken as soon as is prudent to reduce the discharge of sediments.
4. There may be times when the performance of the site inspection may not be practical during an inspection period. Adverse climatic conditions, such as flooding, high winds, tornadoes, electrical storms, etc., or impracticable climatic conditions, such as drought, extended frozen conditions, etc., may prohibit inspections. Should this occur the permittee must make a record of the description of why the inspection(s) could not be performed in lieu of the actual inspection data. Any available documentation of the events which did not allow for the inspection should also be available.

C. **Recording Requirements**

Inspection results shall be summarized and recorded on a Site Inspection Record (SIR, see Appendix D). The SIRs shall be maintained on-site, in accordance with Part IV.D of this permit. The SIR shall contain, at a minimum, the following information:

1. The date and time of inspection.
2. The name of the person performing the inspection.
3. The date and duration (in hours) of the storm event.
4. The rainfall measurements or estimates (in inches) of the storm event.
5. The duration of time between this event and the end of the most recent storm event which was 0.50 inches or greater in precipitation.
6. All incidents of erosion, sediment accumulation, material residue, or spills shall be documented and noted on the SIR. The report shall include the location and description of the incident, estimated quantity of material or size of area affected, and a brief explanation of potential cause and remedial action taken.
7. Any measurable quantities of sediment released off the site, shall be recorded with a brief explanation as to the measures taken to prevent future releases as well as any measures taken to clean up the sediment that has left the site.
8. If no storm event occurs during an inspection period, "no discharge" shall be recorded on the SIR.

PART IV - COMPLIANCE RESPONSIBILITIES

- A. **Duty to Comply.** The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Act and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application. The permittee shall give the Department advance notice of any planned changes at the permitted facility or of any activity which may result in permit noncompliance.
- B. **Operation and Maintenance.** The permittee shall at all times maintain in good working order, and operate as efficiently as possible, all treatment or control facilities or systems installed or used by the permittee to achieve compliance with the terms and conditions of this permit and with the requirement of the SWPP plans. If necessary to achieve compliance with the conditions of this permit, this shall include the operation and maintenance of backup or auxiliary systems.
- C. **Duty to Provide Information.** The permittee shall furnish to the Department, upon request, copies of records required to be kept by this permit. When a permittee becomes aware that it failed to submit any relevant facts or submitted incorrect information in a permit application or any report, it shall promptly submit such facts or information.
- D. **Records Retention.** All records and information (including calibration and maintenance) required by this permit shall be kept for at least three years or longer if requested by the Department or EPA.

- E. **Signatory Requirements.** All applications, reports, or information submitted to the Department shall be signed and certified by the permittee in accordance with the following criteria:
1. All permit applications shall be signed by a responsible corporate officer, a general partner, or a principal executive officer or ranking elected official, in addition to contractors and subcontractors involved in the construction activity or SWPP plan.
 2. All reports required by the permit and other information requested by the Department shall be signed by a person described above or by a duly authorized representative of that person. A person is a duly authorized representative only if:
 - a. The authorization is made in writing by a person described above and submitted to the Department; or
 - b. The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility, such as the position of plant manager, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters.
 3. If an authorization under Part IV.E.2 is no longer accurate for any reason, a new authorization satisfying the above requirements must be submitted to the Department prior to or together with any reports, information, or applications to be signed by an authorized representative.
 4. Any person signing a document under this section shall make the following certification:

“I certify under penalty of law that I have personally examined and am familiar with the information submitted herein. Based on my inquiry of those individuals immediately responsible for obtaining the information, I believe the submitted information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment.”
- F. **Immediate Notification.** The permittee shall report any noncompliance of discharge which may seriously endanger health or the environment as soon as possible, but no later than twenty-four (24) hours from the time the permittee first became aware of the circumstance. The report shall be made to the EPA, Region VIII, Emergency Response Branch, at (303) 293-1788 and the State of North Dakota, Division of Emergency Management, at (701) 328-2121. In addition, a written submission to both the Department and EPA shall be provided within five days of the time that the permittee became aware of the circumstances. The submission shall contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times; the estimated time noncompliance is expected to continue if it has not been corrected; and steps taken or planned to reduce, eliminate, and prevent recurrence of the noncompliance.
- G. **Bypassing.** Any bypass is prohibited except where unavoidable to prevent loss of life, personal injury, or severe property damage, and there were no feasible alternatives to the bypass. The permittee shall provide notification of unanticipated bypasses as may be required by Part IV.F, Immediate Notification. If, for other reasons, a bypass is considered necessary, a request to bypass shall be submitted, at least 15 days in advance if possible, to the Department. No bypass of this type shall occur until permission has been obtained from the Department.

- H. **Upset Conditions.** An upset constitutes an affirmative defense to an action brought for noncompliance with technology-based permit effluent limitations if the requirements of the following paragraph are met. No determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is final administrative action subject to judicial review.

A permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence, that:

1. An upset occurred and the permittee can identify its cause(s);
2. The permitted facility was, at the time, being properly operated;
3. The permittee submitted notice of the upset as may be required under Part IV.F, Immediate Notification; and
4. The permittee complied with any remedial measures required under Part IV.I, Duty to Mitigate.

In any enforcement proceeding, the permittee seeking to establish the occurrence of an upset has the burden of proof.

- I. **Duty to Mitigate.** The permittee shall take all reasonable steps to minimize or prevent any discharge in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment. The permittee, at the Department's request, shall provide accelerated or additional monitoring as necessary to determine the nature and impact of any discharge.
- J. **Removed Materials.** Collected screening, grit, solids, sludge, or other pollutants removed in the course of treatment shall be buried or disposed of in such a manner to prevent any pollutant from entering waters of the state or creating a health hazard.

PART V - GENERAL REQUIREMENT

- A. **Right of Entry.** The permittee shall allow Department and EPA representatives, at reasonable times and, if requested, upon the presentation of credentials, to inspect any facilities or equipment (including monitoring and control equipment), to sample discharges, and to have access to and copy any records required to be kept by this permit. For facilities which discharge to a municipal or other separated storm sewer, this shall also pertain to authorized representatives of the municipal operator or the separate storm sewer receiving the discharge.
- B. **Availability of Reports.** Except for data determined to be confidential under 40 CFR, Part 2, all reports prepared in accordance with the terms of this permit shall be available for public inspection at the offices of the Department. As required by the Act, permit applications, permits, and effluent data shall not be considered confidential.

- C. **Transfers.** This permit is not transferable except upon the filing of a Statement of Acceptance by the new party and subsequent Department approval. The Department may require the new operator to apply for and obtain an individual NDPDES permit as stated in Part I.D. The current permit holder should inform the new controller, operator, or owner of the existence of this permit and also notify the Department of the possible change.
- D. **New Limitations or Prohibitions.** The permittee shall comply with any effluent standards or prohibitions established under Section 306(a), Section 307 (a), or Section 405 of the Act for any pollutant (toxic or conventional) present in the discharge or removed substances within the time identified in the regulations, even if the permit has not yet been modified to incorporate the requirements.
- E. **Permit Actions.** This permit may be modified, revoked and reissued, or terminated for cause. Also, if there is evidence indicating potential or realized impacts on water quality due to any stormwater discharge associated with construction activity covered by this permit, the owner or operator of such discharge may be required to obtain an individual permit or coverage under an alternative general permit in accordance with Part I.D of this permit. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay any permit conditions.
- F. **Need to Halt or Reduce.** It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.
- G. **State Laws.** Nothing in this permit shall be construed to preclude the institution of legal action or relieve the permittee from any responsibilities, liabilities, or penalties established pursuant to any applicable state law or regulation preserved under Section 510 of the Act.
- H. **Oil and Hazardous Substance Liability.** Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties established pursuant to any applicable state law or regulation preserved under Section 311 of the Act.
- I. **Property Rights.** The issuance of this permit does not convey any property rights of any sort, nor any exclusive privileges; nor does it authorize any injury to private property or any invasion of personal rights; nor any infringement of federal, state, or local laws or regulations.
- J. **Severability.** The provisions of this permit are severable, and if any provision of this permit or the application of any provision of this permit to any circumstance is held invalid, the application of such provision to other circumstances and the remainder of this permit shall not be affected thereby.

PART VI - DEFINITIONS

"the Act" means the Clean Water Act.

"BMP" or "Best Management Practices" means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of waters of the state. BMPs also include treatment requirements, operating procedures and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.

"Bypass" means the intentional diversion of waste streams from any portion of a treatment facility.

"Construction" means any activity associated with construction, including but not limited to: clearing, grading, and excavation.

"Department" means the North Dakota State Department of Health and Consolidated Laboratories, Division of Water Quality.

"Grab" sample, for monitoring requirements, means a single "dip and take" sample collected at a representative point in the discharge stream.

"Non-stormwater discharges" means discharges other than stormwater. The term includes both process and non-process sources. Process waste water sources that require a separate NDPDES permit include, but are not limited to industrial processes, domestic facilities and cooling water. Non-stormwater sources that may be addressed in this permit include, but are not limited to: fire hydrant flushing and testing, potable water line flushing, infrequent building and pavement washdowns without detergents, uncontaminated foundation drains, springs, lawn watering and air conditioning condensate.

"Severe property damage" means substantial physical damage to property, damage to treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

"Significant materials" includes, but is not limited to: raw materials; fuels; materials such as solvents, detergents, and plastic pellets; finished materials such as metallic products; raw materials used in food processing or production; hazardous substances designated under Section 101(14) of CERCLA; any chemical the facility is required to report pursuant to Section 313 of Title III of SARA; fertilizers; pesticides; and waste products such as ashes, slag, and sludge that have the potential to be released with stormwater discharges.

"Significant spills" includes, but is not limited to: releases of oil or hazardous substances in excess of reportable quantities under Section 311 of the Clean Water Act (see 40 CFR 110.10 and CFR 117.21) or Section 102 of CERCLA (see 40 CFR 302.4).

"Stormwater" means stormwater runoff, snow melt runoff, and surface runoff and drainage.

"Stormwater associated with industrial activity" means the discharge from any conveyance which is used for collecting and conveying stormwater and which is directly related to manufacturing, processing, or raw materials storage areas at an industrial plant. The term does not include discharges from facilities or activities excluded from the NDPDES program. For the categories of industries identified in

subparagraphs (i) through (x) of this subsection, the term includes, but is not limited to, stormwater discharges from industrial plant yards; immediate access roads and rail lines used or traveled by carriers of raw materials, manufactured products, waste material, or byproducts used or created by the facility; material handling sites; refuse sites; sites used for the application or disposal of process waste waters (as defined at 40 CFR 401); sites used for the storage and maintenance of material handling equipment; sites used for residual treatment, storage, or disposal; shipping and receiving areas; manufacturing buildings; storage areas (including tank farms) for raw materials, and intermediate and finished products; and areas where industrial activity has taken place in the past and significant materials remain and are exposed to stormwater. For the categories of industries identified in subparagraph (xi), the term includes only stormwater discharges from all areas listed in the previous sentence (except access roads) where material handling equipment or activities, raw materials, intermediate products, final products, waste materials, byproducts, or industrial machinery are exposed to stormwater. For the purposes of this paragraph, material handling activities include: storage, loading and unloading, transportation, or conveyance of any raw material, intermediate product, finished product, byproduct or waste product. The term excludes areas located on plant lands separate from the plant's industrial activities, such as office buildings and accompanying parking lots, as long as the drainage from the excluded areas is not mixed with stormwater drained from the above described areas. Industrial facilities (including industrial facilities that are federally or municipally owned or operated that meet the description of the facilities listed in this paragraph [(i)-(xi)]) include those facilities designated under 122.26(a)(1)(v). The following categories of facilities are considered to be engaging in "industrial activity" for purposes of this subsection:

- (i) Facilities subject to stormwater effluent limitations guidelines, new source performance standards, or toxic pollutant effluent standards under 40 CFR, Subchapter N (except facilities with toxic pollutant effluent standards which are exempted under category (xi) of this paragraph);
- (ii) Facilities classified as Standard Industrial Classifications 24 (except 2434), 26 (except 265 and 267), 28 (except 283), 29, 311, 32 (except 323), 33, 3441, 373;
- (iii) Facilities classified as Standard Industrial Classifications 10 through 14 (mineral industry), including active or inactive mining operations [except for areas of coal mining operations meeting the definition of a reclamation area under 40 CFR 434.11(1)], and oil and gas exploration, production, processing, or treatment operations, or transmission facilities that discharge stormwater contaminated by contact with, or that has come into contact with, any overburden, raw material, intermediate products, finished products, byproducts, or waste products located on the site of such operations; inactive mining operations are mining sites that are not being actively mined, but which have an identifiable owner/operator;
- (iv) Hazardous waste treatment, storage, or disposal facilities, including those that are operating under interim status or a permit under Subtitle C of RCRA;
- (v) Landfills, land application sites, and open dumps that have received any industrial wastes (waste that is received from any of the facilities described under this subsection), including those that are subject to regulation under Subtitle D of RCRA;
- (vi) Facilities involved in the recycling of materials, including metal scrap yards, battery reclaimers, salvage yards, and automobile junkyards, including but limited to those classified as Standard Industrial Classification 5015 and 5093;
- (vii) Steam electric power generating facilities, including coal handling sites;

(viii) Transportation facilities classified as Standard Industrial Classifications 40, 41, 42, 44, and 45, which have vehicle maintenance shops, equipment cleaning operations, or airport deicing operations. Only those portions of the facility that are either involved in vehicle maintenance (including vehicle rehabilitation, mechanical repairs, painting, fueling, and lubrication), equipment cleaning operations, airport deicing operations, or which are otherwise identified under paragraphs (i) - (vii) or (ix) - (xi) of this subsection are associated with industrial activity;

(ix) Treatment works treating domestic sewage or any other sewage sludge or wastewater treatment device or system used in the storage treatment, recycling, and reclamation of municipal or domestic sewage, including lands dedicated to the disposal of sewage sludge that are located within the confines of the facility, with design flow of 1.0 mgd or more, or required to have an approved pretreatment program under 40 CFR 403. Not included are farm lands, domestic gardens, or lands used for sludge management where sludge is beneficially reused and which are not physically located in the confines of the facility, or areas that are in compliance with 40 CFR 503;

(x) Construction activity including clearing, grading, and excavation activities except: operations that result in the disturbance of less than five acres of total land area which are not part of a larger common plan of development or sale;

(xi) Facilities under Standard Industrial Classifications 20, 21, 22, 23, 2434, 25, 265, 267, 27, 283, 31 (except 311), 34 (except 3441), 35, 36, 37 (except 373), 38, 39, 4221-25 [and which are not otherwise included within categories (i) - (x)].

"Upset" means an exceptional incident in which there is unintentional and temporary noncompliance with technology-based permit effluent limitations because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

"Waters of the state" Any and all surface waters that are contained in or flow in or through the state of North Dakota as defined in NDCC 61-28-02. This definition includes all water courses, even if they are usually dry.